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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/492,961	01/28/2000	Courtney A. Oldham	AgAuction	1600
54366 7590 08/15/2007 RICK B. YEAGER, ATTORNEY 10805 MELLOW LANE AUSTIN, TX 78759			EXAMINER NGUYEN, NGA B	
			ART UNIT 3692	PAPER NUMBER
			MAIL DATE 08/15/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/492,961	<b>Applicant(s)</b> OLDHAM ET AL.	
	<b>Examiner</b> Nga B. Nguyen	<b>Art Unit</b> 3692	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 09 May 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-43 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-28 is/are allowed.
- 6) ☒ Claim(s) 29-43 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. This Office Action is the answer to the Amendment filed on May 9, 2007, which paper has been placed of record in the file.
2. Claims 1-43 are pending in this application.

### ***Response to Amendment/Arguments***

3. Applicant's arguments with respect to claims 1-43 have been considered but are not persuasive.

In response to the applicant's arguments that the references of Curkendall, Cobb, and Morrison are not reasonably combined, examiner submits that

(1) Although Curkendall does not disclose a method for conducting a cattle auction, Curkendall meets all the steps for certifying a cattle prior to the sale as cited in the previous action. Curkendall discloses providing a seller with guidelines for processing an animal prior to an auction; providing the seller with an electronic identification unit for animal prior to the auction; providing the seller with a visual identification tag for animal prior to the auction; providing the seller with a data card for animal prior to the auction; providing the seller with a data card for animal prior to the auction; etc... (see details below). Thus, it is clear that all of the steps cited by applying Curkendall occur prior to the auction, not during the auction. Therefore, Curkendall meets all the steps for certifying a cattle prior to the auction.

(2) The applicant claimed invention recites a method for conducting a cattle auction in which the seller is provided a guidelines, an electronic identification unit for

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animal, a visual identification tag, a sales certification form, etc...prior to the auction; conducting cattle auction and managing the settlement between buyers and sellers. Curkendall discloses providing the seller a guidelines, an electronic identification unit for animal, a visual identification tag, etc...prior to the auction. Cobb discloses providing the seller a sales certification form prior to the auction. Morrison discloses conducting an auction and managing the settlement between buyers and sellers. Therefore, combining Curkendall, Cobb, and Morrison is reasonable. Moreover, The test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary reference.... Rather, the test is what the combined teachings of those references would have suggested to those of ordinary skill in the art." In re Keller, 642 F.2d 413, 425, 208 USPQ 871, 881 (CCPA 1981). See also In re Sneed, 710 F.2d 1544, 1550, 218 USPQ 385, 389 (Fed. Cir. 1983) ("[I]t is not necessary that the inventions of the references be physically combinable to render obvious the invention under review."); and In re Nievelt, 482 F.2d 965, 179 USPQ 224, 226 (CCPA 1973) ("Combining the teachings of references does not involve an ability to combine their specific structures.").

(3) Cobb discloses providing the seller with a sales certification form prior to the sale (see column 11, lines 55, the purchaser becomes the seller in subsequently sells the animal). Cobb also teaches collecting background information of the animal (column 4, lines 54-67, microchip number, sex, color, etc...).

In conclusion, for the reason set forth above, examiner decides to maintain the previous rejection (also see details below) and make this office action FINAL.

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4. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 29-43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Curkendall et al (hereinafter Curkendall), U.S. Patent No. 6,342,839, further in view of Cobb et al (hereinafter Cobb), U.S. Patent No. 6,183,258, and further in view of Morrison, *"Pigs in cyberspace: Canadian plans to auction livestock via the Internet*, Financial Post.

Regarding to claim 29, Curkendall discloses a method for certifying cattle for sale between a seller and a buyer comprising:

providing seller with a plurality of required guidelines for processing at least one animal prior to the sale, required guidelines comprising: at least one required vaccination, at least one required treatment to animal, at least one required health record, and a required waning date fro at least one animal that is a least forty five days prior to auction (column 16, lines 5-32; column 11, lines 15-20; column 12, lines 25-26);

utilizing, by seller, an electronic identification unit on each of at least one animal, each of identification units comprising a unique animal code for each of at least on animal (column 6, lines 45-65, transponder);

collecting information in each of at least one animal comprising: physical characteristics of at least one animal (column 14, lines 50-65);

Curkendall does not disclose processing a complete and signed certification form which certified that at least one animal was processed in accordance with required processing guidelines; and providing buyer with at least a portion of collected information and information regarding certification. However, Cobb discloses processing a complete and signed certification from which certified that at least one animal was processed in accordance with required processing guidelines; and providing buyer with at least a portion of collected information and information regarding certification (column 9, line 32-column 10, line 62 and column 11, lines 27-55). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to include

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the feature above with Curkendall's for the purpose of obtaining animal's information from the seller.

Moreover, Curkendall does not disclose the certification process for a cattle auction. However, Morrison discloses an automated method for conducting a cattle auction (see the entire document). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Morrison to adopt the teaching of Curkendall's to apply the Curkendall's certification process, prior to an auction, for the purpose of ensuring the animal health before auctioning the animal to buyers.

Regarding to claims 30-34, Curkendall further discloses guidelines further comprises: a required vaccination regimen; a required treatment regimen comprises dehorning at least on animal, castrating at least one animal; performing injections in at least on animal in a region of the neck of at least one animal (column 11, lines 1-column 12, line 48).

Regarding to claims 35, 36, Curkendall further discloses physical characteristics of collected information comprises: weight information, the sex of at least on animal (column 14, lines 50-67 and column 12, line 13).

Regarding to claim 37, Curkendall further discloses collected information is collected and stored based, at least in part, one unique animal code (column 14, lines 17-23).

Regarding to claim 38, Curkendall discloses a method for certifying cattle for sale comprising:

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providing seller with a plurality of required guidelines for processing at least one animal prior to the sale, required guidelines comprising: at least one required vaccination, at least one required medication, at least one required treatment to at least one animal, at least one required health record, and a required weaning date for at least one animal that is at least forty five days prior to auction (column 16, lines 5-32; column 11, lines 15-20; column 12, lines 25-26);;

utilizing an electronic identification comprising a unique animal code for each of at least one animal (column 6, lines 45-65, transponder);

collecting individual animal data comprising: physical characteristics information for each of at least one animal during processing of at least one animal (column 14, lines 50-67);

automatically collecting information comprising: animal weight and unique animal code, for each of at least one animal (column 14, lines 17-23, 50-67); and

automatically updating a database record with collected information corresponding to at least one animal with collected information prior to auction (column 11, lines 9-12).

Curkendall does not disclose submitting a signed certification form which certifies that at least one animal was processed on accordance with required processing guidelines. However, Cobb discloses submitting a signed certification form which certifies that at least one animal was processed on accordance with required processing guidelines; (column 9, line 32-column 10, line 62 and column 11, lines 27-55).

Therefore, it would have been obvious to one with ordinary skill in the art at the time the



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invention was made to include the feature above with Curkendall's for the purpose of obtaining animal's information from the seller.

Moreover, Curkendall does not disclose the certification process for a cattle auction. However, Morrison discloses an automated method for conducting a cattle auction (see the entire document). Therefore, it would have been obvious to one with ordinary skill in the art at the time the invention was made to modify Morrison to adopt the teaching of Curkendall's to apply the Curkendall's certification process, prior to an auction, for the purpose of ensuring the animal health before auctioning the animal to buyers.

Claims 39-43 contain similar limitations found in claims 30-34 discussed above, therefore are rejected by the same rationale.

### ***Allowable Subject Matter***

7. Claims 1-28 are allowed over the prior arts of cited record.8

### ***Conclusion***

8. Claims **1-28** are allowed.

Claims **29-43** are rejected.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to examiner Nga B. Nguyen, whose telephone number is (571) 272-6796. The examiner can normally be reached on Monday-Thursday from 8:30 AM-6:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer, can be reached on (571) 272-6783.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-3600.

10. **Any response to this action should be mail to:**

Commissioner of Patents and Trademarks

P.O. Box 1450

Alexandria, VA 22313-1450

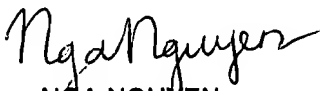
**or faxed to:**

(703) 872-9306, (for formal communications intended for entry)

**or:**

(571) 273-0325, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Know building, 501 Dulany Street, Alexandria, VA, First Floor (Receptionist).

  
NGA NGUYEN  
PRIMARY EXAMINER

July 17, 2007